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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 DEREK M. SMITH,

12 Plaintiff,

13 v.

14 FRESNO COUNTY JAIL,

15 Defendant.  
16

Case No. 1:24-cv-00672 JLT EPG (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, REVOKING  
PLAINTIFF'S *IN FORMA PAUPERIS*  
STATUS, AND DIRECTING PLAINTIFF  
TO PAY THE FILING FEE IN FULL WITHIN  
30 DAYS

(Docs. 7, 8, 10)

17 Previously, the Court granted Derek Smith's request to proceed *in forma pauperis* in this  
18 action. However, upon review of Plaintiff's litigation history, the assigned magistrate judge  
19 found Plaintiff is subject to the three strikes bar of 28 U.S.C. § 1915(g), based upon four actions  
20 that were dismissed prior to the filing of this matter. (Doc. 10 at 3.) The magistrate judge also  
21 found that Plaintiff's allegations "are insufficient to show that there is a real and imminent threat  
22 to Plaintiff's personal safety." (*Id.* at 5.) Thus, the magistrate judge found the imminent danger  
23 exception to Section 1915 does not apply. (*Id.*) The magistrate judge recommended the Court  
24 revoke Plaintiff's *in forma pauperis* status and direct Plaintiff to pay the filing fee in full. (*Id.*)

25 The Court served the Findings and Recommendations on Plaintiff and notified him that  
26 any objections were due within 30 days. (Doc. 10 at 5.) The Court advised Plaintiff that the  
27 "failure to file objections within the specified time may result in the waiver of rights on appeal."  
28 (*Id.* at 6, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014).) Plaintiff did not file

any objections and the time to do so has passed.

According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case. Having carefully reviewed the matter, the Court concludes the Plaintiff is not entitled to proceed *in forma pauperis* in this matter because Plaintiff has at least three dismissals that qualify as strikes under Section 1915(g), and he does not satisfy the imminent danger exception. Thus, the Court **ORDERS**:

1. The Findings and Recommendations filed on January 21, 2025 (Doc. 10) are **ADOPTED** in full.
2. Plaintiff's *in forma pauperis* status is **REVOKED**.
3. Within 30 days from the date of service of this order, Plaintiff **SHALL** pay in full the \$405.00 filing fee if he wishes to proceed with his action.

**Plaintiff is advised that failure to pay the required filing fee as ordered will result in the dismissal of this action without prejudice.**

IT IS SO ORDERED.

Dated: **February 27, 2025**

  
UNITED STATES DISTRICT JUDGE